

# Notice of Allowability

Application No.

10/718,058

Examiner

Kiandra C. Lewis

Applicant(s)

WEBER, JAMES J.

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/19/06.
2. ☒ The allowed claim(s) is/are 1-6 and 8-15.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date Attached
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

**DETAILED ACTION**  
**EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with William Haefliger on 12/7/06.

The application has been amended as follows:

Claim 1 (currently amended) An arm supporting pillow in sling apparatus, comprising in combination

- a) a flexible sling, with a strap to be supported by a user's shoulder area,
- b) an insert pillow received in the sling, and ~~to be~~ retrievable from the sling, the pillow having elongated block shape ~~and having adjustable hook and loop attachment to the inner side of the sling, and the sling and inner side of the pillow each having adjustable hook and loop configurations adapted for attachment of the pillow to the inner side of the sling,~~
- c) the sling and pillow dimensioned to receive a user's forearm alongside the pillow, in the sling,
- d) the sling having forwardly extending panels which are foldable to be ~~connectible~~ connectable together along upper extent of the sling, spaced above the

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pillow, to close the sling over the user's forearm and pillow, and to allow upward opening of the sling to release the user's forearm and the pillow,

e) there being a user's forearm receiving pocket formed between the pillow in the sling and outer extent of the sling facing inwardly toward the pillow, and defining one of said panels.

***Allowable Subject Matter***

2. Claims 1-6 and 8-15 are allowed.

3. The following is an examiner's statement of reasons for allowance: The prior art of record does not anticipate or render obvious the invention as claimed. The cited prior art Burkhead US 5,334,132, Padden et al. 5,569,172, and Avon 2004/0215119 do not read on the claims as amended.

4. As to Burkhead, there is not motivation or reason to place the pillow as disclosed in the reference on the inside of the pillow. The purpose of the pillow in Burkhead is so that the placement of the forearm against the torso provides a comfortable fit. The purpose of the pillow of the applicant's invention is to provide comfort to the user's arm not torso.

5. As to Padden et al. it does not teach an elongated block shape pillow nor does it teach the pillow and the sling to have hook and loop material for attachment.

6. As to Avon, the reference does not teach a pocket between the pillow and the sling or an elongated block shape pillow. The reference teaches the use of a curved

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cushion to form to the user's arm. The specification is silent to any other shapes of the cushion. Furthermore, for the pillow to be block shaped would not have been obvious because then it would not form to the user's arm.

7. Lastly was no motivation within the references to combine the prior art to place the pillow of Burkhead on the inside of the sling or to place hook and loop material on the pillow and inner side of the sling and shown by Avon. The combination of such components would have been hindsight.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 5,334,132; 5,569,172; 2004/0215119.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kiandra C. Lewis whose telephone number is 571-272-7517. The examiner can normally be reached on Mon-Thurs 9AM-6PM and alternating Fridays 9AM-5PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KCL

*Patricia Bianco*  
12/11/06